

1 OLIVER L. PHILLIPS, JR.

2 VS.

2007-0526B

3 MCT INVESTORS, L.P., DONALD R. DEPRIEST, ET AL

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8 ROUGH DRAFT OF PROCEEDINGS HELD MAY 5, 2009

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1 (Thereupon, the deposition video was marked Exhibit
2 No. J3 and received into evidence.)

3 (Off the record.)

4 THE COURT: Who's the plaintiff's next
5 witness?

6 MR. COOPER: Your Honor, we call Belinda
7 Hudson.

8 THE COURT: Welcome, Mrs. Hudson. We want
9 you to be comfortable. What's going to happen
10 is the clerk, Mrs. Neese, will give you an
11 oath, and then you'll come sit to my left.
12 Thanks for coming today.

13 BELINDA HUDSON,
14 having been called as a witness by the plaintiff,
15 was sworn and testified as follows:

16 THE COURT: You look nice today. Thanks
17 for dressing up for court.

18 MRS. HUDSON: Thank you. I dress this way
19 all the time.

20 THE COURT: I bet you do.

21 MR. COOPER: May I proceed, Your Honor?

22 THE COURT: Sure.

23 DIRECT EXAMINATION

24 BY MR. COOPER:

25 Q Mrs. Hudson, would you, please, state your

1 full name for the record?

2 A. Belinda Hudson.

3 Q. Mrs. Hudson, my name is Will Cooper, and I
4 represent Oliver Phillips. I have a few questions
5 for you today. I hope to keep it fairly brief.
6 Could you tell the Court where you live?

7 A. I live at 1204 Alimar Road, Columbus,
8 Mississippi.

9 Q. How long have you been in Columbus?

10 A. Oh, 30-something years.

11 Q. Okay. And you're married?

12 A. Yes, I am.

13 Q. To whom?

14 A. Bob Hudson.


15 Q. And he's in the courtroom today?

16 A. Yes, he is.

17 Q. Okay. Tell the Court where you work.


18 A. I work for Don DePriest. 

19 Q. Okay. And you work for an entity that Don
20 owns. Tell me who you work for. Is it Charisma?
21 Is it MCT Investors? Is it a certain entity, or is
22 just Don DePriest as an individual?

23 A. I have always considered myself to be his 
24 executive secretary.

25 Q. That's what I was getting at. How long

1 have you been in that role?

2 A. About 22 years. 


3 Q. Okay. Did you start out as an executive
4 assistant just for Don or for other people?


5 A. For Don and others.

6 Q. Okay. Was it at --

7 A. Teknamed Boundary.

8 Q. How long have you been, though, just
9 Mr. DePriest's personal executive secretary? Since
10 what year?

11 A. I don't remember. Probably, 15 to 18 
12 years.

13 Q. Okay. And as I understand it, your duties
14 as his executive secretary, you help handle his 
15 finances, correct?

16 A. Yes, sir.

17 MR. WINDHAM: Object to that being a
18 leading question.

19 MR. COOPER: Your Honor, she's --

20 THE COURT: Wait, now. Overruled. This
21 is kind of preliminary information. You can
22 answer the question if you remember it.

23 BY MR. COOPER:

24 Q I asked you -- I said -- what did I ask
25 you? Oh, I asked you, as Mr. DePriest's executive

1 this. She --

2 THE COURT: Let me just stop you. I'm
3 going to make it easy for you. She works for
4 Mr. DePriest. You can treat her as an adverse
5 witness, and you can lead her.

6 BY MR. COOPER:

7 Q. Mrs. Hudson, you've been working with Don,
8 I think you said, 22 years, correct?

9 A. (Nodded head affirmatively.)

10 Q. And you have been familiar with and in and
11 out of a lot of different business dealings. We
12 won't go through all of those. But is it fair to
13 say that you are very familiar with Mr. DePriest's
14 business dealings over that 22 years?

15 A. Fairly familiar.

16 Q. And as a result of your familiarity with
17 Mr. DePriest, I believe you told us in your
18 deposition that you consider him an astute
19 businessman; is that correct?

20 A. I do. I respect him highly.

21 Q. Okay. Over the years of -- I've been in
22 Columbus 15 years. I've heard Mr. DePriest referred
23 to as a genius. Have you also heard that same
24 thing?

25 A. Yes, I have.

1 Q. Is he, in fact, a genius? Is there some
2 test he's taken? Any society he's in that you're
3 aware of that makes him a genius?

4 A I've heard he's in Mensa.

5 Q. Okay. I've heard the same thing. You
6 also, based on your past business dealings,
7 assisting Mr. DePriest in those dealings, I think
8 you told us based on that, that you -- he always
9 seems to know what's going on in his business?

10 A. Yes, he does.

11 Q. Okay. And as your role as his executive
12 secretary, you've had access to both his business
13 checking accounts, as well as personal checking
14 accounts, correct?

15 A. Yes, I have.

16 Q. In fact, you are an authorized signatory
17 on all of those accounts, are you not?

18 A. Most all, yes, sir.

19 Q. It's my understanding, in your 22 years of
20 dealing with Mr. DePriest, that there have been
21 numerous occasions within those accounts, both
22 personal and business, that there have been
23 insufficient funds to cover checks that were
24 written. Is that a fair statement?

25 MR. WINDHAM: Object to relevance.

DRAFT

Petitioners: Below testimony by attorney for Charisma Communications Corp., David Richards, indicates that Charisma and Mr. DePriest did not disclose the majority change in ownership and control of Charisma to DePriest per the 1983 and 1984 agreements signed by Mr. DePriest.

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1 consideration made?

2 A. No, sir, not at all.

3 Q. Okay.

4 MR. TAYLOR: We have no further questions,
5 Your Honor.

6 THE COURT: All right. Good job.

7 MR. DEPRIEST: Thank you, sir.

8 THE COURT: Very good witness. You can
9 stand down. Who will you have next?

10 MR. WINDHAM: We'd call Mr. David
11 Richards. I told him to be here at 10:00.

12 THE COURT: Okay. We'll take a ten-minute
13 break.

14 (BRIEF RECESS.)

15 MR. WINDHAM: Your Honor, we'd like to
16 call Mr. David Richards.

17 THE COURT: Okay. Mr. Richards, I want to
18 thank you for coming. The court reporter will
19 give you your oath, and then we will invite you
20 to sit here.

21 **DAVID RICHARDS,**
22 having been called as a witness by the defendant,
23 was sworn and testified as follows:

24 THE COURT: Good to have you, sir.

25 MR. RICHARDS: Thank you very much, Judge.

DIRECT EXAMINATION

2 **BY MR. WINDHAM:**

3 Q. Mr. Richards, could you, please, introduce
4 yourself to the Court?

5 A. My name is David G. Richards. I live in
6 Atlanta, Georgia. My business address is the
7 Richards Law Firm, LLC, 2973 Hardmon Court,
8 Northeast, Atlanta, Georgia. 30305.

9 Q. I take it from your business address that
10 you're a lawyer?

11 A. I am.

12 Q. What is your specialty?

13 A. Telecommunications law, Federal
14 Communications Commission, wireless regulatory, as
15 well as general regulatory.

16 Q. And where did you go to law school?

17 A. I went to Notre Dame Law School in Notre
18 Dame, Indiana.

19 Q. How did you get started in
20 telecommunications law?

21 A. When I graduated from law school, I
22 applied to the Federal Communications Commission for
23 a position as an attorney. My undergraduate degree
24 is in mechanical engineering, and I thought blending
25 those two disciplines together in something other

Petitioners: It appears Charisma Communications Corp. never filed with the FCC to inform it that its ownership and control had changed to Mr. DePriest having majority, as witnessed by the 1983 agreement and 1984 agreements (see e.g. Exhibit B) signed by Mr. DePriest.

believe it's Exhibit 2 within Exhibit 79, Page 5632, is that the ownership structure that you would have given to the FCC for the application?

A. Yes. It would be an exhibit like this.

Q. Well, is that one right there?

A. Yes.

Q. Okay. And it identifies Chuck Cooper and Don DePriest as having ownership interest in that entity?

A. They had ownership interest in one of the general partners, yes.

Q. They're the owners, they have some ownership interest, right?

A. Yes.

Q. Okay. You never amended this application to reflect that Charles Cooper didn't have any ownership?

A. I don't remember filing an amendment to this application, to the West Palm Beach.

Q. Or any others, that you recall?

A. I just don't -- I don't remember. If there was a change in ownership, we would have filed an amendment.

Q. And the reason why this is important to the FCC fundamentally is because they don't want --

Petitioners: Charisma Communications Corp.'s own FCC counsel, a former FCC employee, testimony shows that Mr. DePriest had to disclose to the FCC in 1983 when he obtained from Mr. Cooper majority ownership of Charisma Communications Corp. It appears from the testimony that this was not done. If so, then Mr. DePriest has a history of hiding the real parties in interest in FCC licensees in which he is involved.

1 there was a -- I'm sorry -- a foreign -- in the
2 Communications Act, they didn't want foreigners
3 owning these radio wave stations, correct?

4 A. Only part of it. That's part of it. The
5 other was they wanted to know who the real parties
6 and interests were. So if you had a change in a
7 general partner of a limited partnership, they would
8 want to know that.

9 Q. Okay. And you never told the FCC that
10 Charles Cooper didn't have an ownership in this
11 particular application entity?

12 A. If there was a change in ownership of that
13 nature, we would have filed an application -- we
14 would have filed an amendment to correct that,
15 assuming the change occurred before we reached the
16 full market settlements. But sitting here today, I
17 can't tell you that we filed an ownership amendment
18 change.

19 Q. Okay.

20 A. If there was one required, we would have
21 done it.

22 Q. I've only got four minutes.

23 A. Sorry.

24 Q. Mr. DePriest never told you back in
25 December 1983 that Chuck Cooper had assigned all of

1 his ownership interest in all of the Charisma
2 entities to him so that Charles Cooper didn't have
3 any ownership in it? He didn't tell you that?

4 A. I don't remember him telling me that. If
5 he told me that and we needed to file an amendment,
6 we would have filed an amendment.

7 Q. Well, you would have needed to file an
8 amendment. I mean, this is in the 90th market.
9 Assuming all the applications are the same, as far
10 as ownership, 1 through 90, you would have had to
11 file 90 amendments, wouldn't you? Wouldn't you
12 remember that?

13 A. If there was an ownership change that
14 required the filing, we would have made the filing.

15 Q. Do you recall 90 amendments?

16 A. I don't recall Mr. DePriest telling me
17 about Mr. Cooper, in December of 1983, not having an
18 ownership.

19 Q. I appreciate that. In looking at -- you
20 talked about the number of pages in particular
21 exhibits and the econometrics part of it, the market
22 survey being really big, in your deposition?

23 A. Oh, in the deposition, yes.

24 Q. Like, 200 pages?

25 A. Whatever it was.

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1 organized, or are you ready to roll?

2 MR. TAYLOR: Judge, I think I'm ready, but
3 if I can have about five minutes --

4 THE COURT: You got it.

5 MR. TAYLOR: -- with the witness, I would
6 be sure I'm ready.

7 THE COURT: Five minutes.

8 MR. TAYLOR: Thank you.

9 THE COURT: You're welcome.

10 (BRIEF RECESS)

11 DONALD R. DEPRIEST,
12 having been called as a witness by the defendant,
13 was sworn and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. TAYLOR:

16 Q. State your name, please, sir.

17 A. Donald DePriest.

18 Q. Where do you live, Mr. DePriest?

19 A. 510 North 7th Avenue Street, Columbus,
20 Mississippi.

21 Q. How long have you lived in Columbus?

22 A. Present location, about 23 years; and off
23 and on before that, another 20 years or so.

24 Q. What year did you come to Columbus?

25 A. Halloween day, 1963.

1 A. In 1982, early 1982.

2 Q. So well before you talked with Oliver
3 about such things, you and Chuck had already had
4 discussions; is that correct?

5 A Well, we were talking with Oliver almost
6 constantly in his capacity as accountant or
7 financial advisor. But when we started out, it was
8 to be 50/50, Chuck and myself.

9 Q. Okay. Continue with the explanation of
10 your progression in pursuing the cellular licenses
11 and what happened. I'm still back in the Florida
12 meeting. Coming from that point in time forward,
13 what were the steps that were taken to pursue the
14 cellular licenses, if you can give us an overview.

15 A Well, in general, I talked with Chuck and
16 told Chuck that if we were going to go for this
17 business, we needed to decide where we were going to
18 file the first applications. And, you know, even
19 though I've heard testimony otherwise, it's my
20 testimony that I made the decision about Miami,
21 Tampa and Houston. You know, there was discussion
22 among Chuck and me, and Oliver was involved in some
23 of those discussions.

24 Then the matter came up that we would
25 have to have cell sites; because in the broadcast

Petitioners: Mr.
DePriest and Mr.
Cooper to be 50/50
owners in
Charisma
Communications
Corp.

1 BY MR. TAYLOR:

2 Q. Are you familiar with this document,
3 Mr. DePriest?

4 A. Yes, sir.

5 Q. What do you recall about this document?

6 A. I don't recall a lot about the document,
7 but I do recall that Mr. Phillips had this document
8 prepared.

9 Q. Okay. You say you recall that. What do
10 you mean?

11 A. I believe I had expressed concern that I
12 was putting up all of the money and Chuck was shown
13 as a 50 percent partner. And I hadn't thought of
14 this document at all until we got in this court
15 case, but that I was putting up all of the money and
16 I had concerns pertaining to Chuck and that Oliver
17 reduced those concerns to writing. He may have used
18 Threadgill Smith. And this document was submitted
19 to me for approval, and Chuck had already
20 assigned -- had already signed it.

21 Q. Now that you've read through it --

22 A. Well, actually, I didn't read through it
23 just now, but I have read it another occasion.

24 Q. Well, you might take a moment and look
25 through it again, and then I've got a question or

Petitioners:
Discussion of 1983
agreement in which
Mr. DePriest got
majority ownership
of Charisma
Communications
from Chuck Cooper.

1 two I want to ask you about it.

2 A. All right.

3 Q. Okay. Take your time. I don't want to
4 hurry you.

5 A All right, sir.

6 Q. What was the purpose of this document?

7 A. It was to put in writing that I was
8 providing nearly all, if not all, of the funds and
9 how we would deal with that as between Chuck and
10 myself.

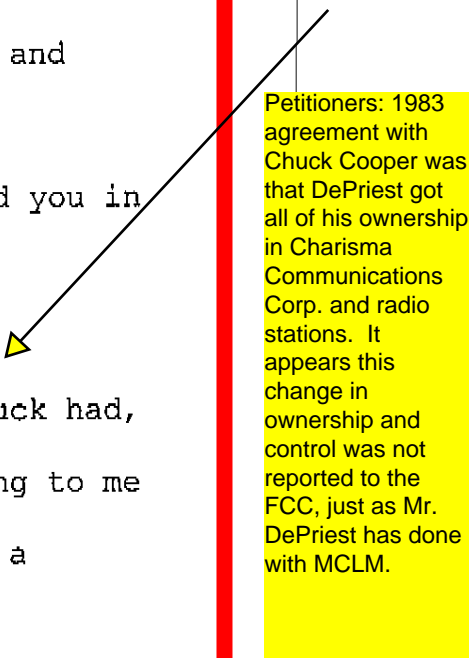
11 Q. What was the deal between Chuck and you in
12 regards to the businesses identified on this
13 document?

14 A. That Chuck -- whatever interest Chuck had,
15 including the radio stations, would all belong to me
16 until some future accounting or agreement at a
17 future date.

18 Q. And why was this document prepared?

19 A. Because this was getting bigger. More and
20 more money was going in by me. We were
21 contemplating getting outside investors involved.
22 Actually, we had outside investors involved, but we
23 were contemplating rolling this up into a single
24 entity.

25 Q. And I see both you and Chuck Cooper signed



Petitioners: 1983 agreement with Chuck Cooper was that DePriest got all of his ownership in Charisma Communications Corp. and radio stations. It appears this change in ownership and control was not reported to the FCC, just as Mr. DePriest has done with MCLM.

1 it; is that right?

2 A. Chuck signed it and then presented it to
3 me for approval and acceptance.

4 Q. Okay. Now, you say that Mr. Phillips
5 prepared this document; is that correct?

6 A. Yes, sir. That's what I recall.

7 Q. Okay. Is there anything that makes you --
8 reconfirms your memory that that's -- that he was
9 the drafter?

10 A. Two things come to mind. One, I believe
11 this is Oliver's printing here where it says the 1st
12 day of December, 1983, and then Monte Boyd Hatcher
13 is a notary at T.E. Lott, if I'm not mistaken.

14 Q. Now, where did you pick that name up?

15 A. Notarization of Chuck's signature.

16 Q. On the third page of the document?

17 A. Yes, sir.

18 Q. Okay. The person who signed is a
19 notary -- you say was an employee of T.E. Lott &
20 Company?

21 A. I believe so, and I think she may still be
22 there.

23 Q. And that's Oliver's firm, right?

24 A. Yes, sir.

25 MR. TAYLOR: I ask the court reporter to

1 his check number and when it was paid.

2 Q. So you believe that Oliver Phillips
3 prepared both Exhibit 35 and Exhibit P1; is that
4 correct?

5 A. I do.

6 Q. Are there any similarities in the wording
7 between the two documents?

8 A. Quite a bit.

9 Q. Okay. Anything in particular stand out?

10 A The type style, just the entire style of
11 it. Oh, and this is also Oliver's writing, "13th
12 day of April."

13 Q You recognize that?

14 A. Yes, sir.

15 Q. Okay. When you signed Exhibit P1, was the
16 assignment, Exhibit 35, either attached or presented
17 to you at that time?

18 A. I don't know.

19 Q. Do you believe that the assignment, P35,
20 is the assignment referred to in the last paragraph
21 of Exhibit P1?

22 A. I do.

23 Q. Why?

24 A. Because that's the only assignment that I
25 know of with Chuck Cooper dated December 1, 1983,

1 you know, that's referring to this type subject
2 matter.

3 Q. That's the date shown on this assignment,
4 Exhibit P35, is December 1, '83?

5 A. Yes, sir.

6 Q. And the last paragraph refers to an
7 assignment -- or an assignment, agreement, dated
8 December 1, '83; is that correct?

9 A. Yes, sir.

10 Q. And it also refers to that assignment
11 being between Donald R. DePriest and Charles B.
12 Cooper; is that correct?

13 A. Yes, sir.

14 Q. Okay. What do you recall about receiving
15 Exhibit P1, dated April 13, 1984? Do you remember
16 signing that or the circumstances surrounding your
17 signing that?

18 A. I don't remember much about it.

19 Q. Okay. Apparently, you did sign it on or
20 about April 13, 1984; is that correct?

21 A. I would say that I did because there's a
22 notary acknowledging my signature.

23 Q. Okay. And after you signed it, what was
24 the first time you saw this agreement again?

25 A. I think it was the day Oliver came in my

Petitioners:
Discussion of the
1983 Agreement
and 1984
Agreement that is
contained in
Exhibit B.

1 office and brandished it.

2 Q. Okay. In regards to Chuck Cooper, what is
3 the effect of the assignment, Exhibit P35, and how
4 does it interrelate with Exhibit P1 as to Chuck's
5 interest?

6 A Well, that's a very good -- I'm not sure I
7 can answer that, but it says that --

8 Q. "It" being what? Which agreement are you
9 talking about?

10 A. P1 states that the assignment agreement
11 between Chuck and me shall remain in full, force
12 and effect and is not affected by this agreement, so
13 that would send me back to this one, P35.

14 Q. Okay. And, again, what does it say?

15 A. It says that, you know, I've put up
16 probably all or nearly all of the money and I've
17 got -- all of this is transferred to me until such
18 time as I get all of my capital back and that the
19 amount of this is going to be determined and agreed
20 by Chuck and me.

21 Q. Did you get all of your capital back at
22 any time?

23 A. I think I got all of my capital back; but
24 in the meantime, Chuck and I entered into another
25 agreement and release.

1 A All right. Well, this -- this states
2 25 percent of all such joint ventures from this day
3 forward. And there were no ventures from this date
4 forward, so that's why I'm a little at a loss here.

5 Q. So you can't reconcile and make sense out
6 of it, too, is what it amounts to; is that right?

7 A. No, sir, I can't.

8 Q. Okay. Did you and Oliver discuss the
9 meaning or relationship of these documents at any
10 time?

11 A. I don't think -- the meaning of both or
12 one?

13 Q. Either/or.

14 A. I think we discussed the one with Chuck on
15 December 1st. I don't recall discussing the meaning
16 of whatever this is on April 13th, 1984.

17 Q. Okay. Let me go back, then, to the
18 April 13th document. You acknowledge that you
19 signed it?

20 A. Yes, sir.

21 Q. Do you have any recollection of it at all
22 at the time of signing or what you were thinking at
23 the time of signing?

24 A. I do know that -- I see something here
25 that Oliver is talking about being an active member

1 of day-to-day management. I know that we talked
2 about that, but it never occurred.

3 Q. Okay. Were those talks around the time of
4 this agreement, April 13th, '84?

5 A. Yes, sir.

6 Q. Okay. Anything else about this Exhibit P1
7 that comes to mind?

8 A. No, just what I said, that I'm not aware
9 of such joint venture from this day forward.

10 Q. So what is -- your reading the document
11 and based on your recollection of your talks with
12 Oliver that you just described, what is your belief
13 as to the purpose of this document?

14 A. I think Oliver wanted to be involved; and
15 as far as being an active involved party, that never
16 happened. I guess this never went into force.

17 Q. Okay. Do you remember whether or not
18 there was a company -- this joint venture, which is
19 described in the first paragraph, was ever given a
20 name?

21 A. No, sir. There was no name ever given to
22 this.

23 Q. Okay. Anything else that makes you
24 believe it never was activated or never came to
25 fruition?

1 A Well, it didn't have books and records,
2 didn't file tax returns, and it didn't dissolve or
3 form corporations or issue stock or stuff like that.

4 Q. Okay. Do you know whether anybody put up
5 any capital to support this venture?

6 A. No, sir. I don't think any capital was
7 put up.

8 Q. Okay.

9 MR. TAYLOR: Judge, this might be a good
10 quitting time. I'm going to shift -- I'm going
11 to be on this topic, but I've got a lot of
12 questions that's going to take a while.

13 THE COURT: Okay. Will it be all right if
14 we start back at 9:00 in the morning?

15 MR. TAYLOR: Whatever suits the Court.

16 THE COURT: We'll be in recess until 9
17 o'clock.

18 (END OF PROCEEDING.)

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